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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

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JAN 21 2004

Federal Communication Commission
Bureau / Office

IN THE MATTER OF:

AMENDMENT OF SECTION 73.202(B)
TABLE OF ALLOTMENTS
FM BROADCAST STATIONS
(Shorter, Alabama)

BC DOCKET NO:
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TO: Assistant Chief, Audio Division
Media Bureau

JAN 28 2004

Federal Communications Commission
Office of the Secretary

H&H COMMUNICATIONS, L.L.C.
OPPOSITION TO
AUBURN NETWORK, INC.
PETITION FOR RECONSIDERATION

COMES NOW, H&H Communications, L.L.C., ("H&H") through counsel, and pursuant to the provisions of Section 1.429 of the Commission's Rules (47 C.F.R. 1.429) with this opposition to the Petition for Reconsideration submitted by Auburn Network, Inc. ("ANI") on December 19, 2003.

On October 8, 2003, H&H filed a "one-step" application on FCC Form 301 (FCC File No. BPH-20031008ABH) to increase class of operation of WQSI-FM, Union Springs, Alabama to Class C3. At the time of the filing of that application, H&H was unaware that ANI had previously submitted a Petition for Rulemaking for channel 228A which would be mutually exclusive with H&H's application. Nevertheless, both the application of H&H and the Petition for Rulemaking of ANI require that the FCC reclassify WDJC-FM, Birmingham, Alabama from a Class C to a Class C0 facility in order for either the ANI proposal to be adopted or the H&H application to be granted. WDJC-FM currently operates on Channel 229C with an ERP of 100kW at HAAT of 307 meters. The application of H&H fully satisfies all of the Commission's minimum spacing requirements to the proposed reclassification of Station WDJC-FM as a Class C0 facility. The ANI Petition for Rulemaking, however, does not

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On November 19, 2003, the FCC returned the ANI Petition for Rulemaking stating that “ we have reviewed your proposal and find that it is unacceptable for consideration at this time. Our engineering analysis reveals that by using the requested site, (32-21-39 NL and 85-53-34 WL), Channel 228A at Shorter, Alabama is short-spaced to the proposed reclassification of Station WDJC-FM as a Class C0 facility and cannot be cured.”

In response to the Commission’s return of its Petition for Rulemaking, ANI submitted a Petition for Reconsideration on December 19, 2003. The sole argument in support of its Petition for Reconsideration is that the Commission’s FCC CDBS database incorrectly states the coordinates for the WDJC-FM tower ANI claims the Commission reached the conclusion that the ANI proposal was flawed based upon “. an incorrect assumption”. ANI does not argue that the CDBS database is incorrect ANI argues that the co-ordinates in the CDBS database do not accurately reflect the actual location of the WDJC-FM tower

In support of its argument, ANI’s engineer claims to have visited the WDJC-FM tower site in Birmingham A consumer-grade GPS device was used by ANI to determine the exact location of the WDJC-FM tower. ANI argues that, based on the GPS read-out, the WDJC-FM tower is 16.4 feet from where the CDBS database indicates it is. This is not a typographical error ANI alleges an error of 16 4 feet! ANI’s Rulemaking proposal depends on 16 4 feet! Based upon this GPS read-out, ANI claims the Commission incorrectly concluded that the ANI Rulemaking proposal was fatally flawed It argues that because ANI’s measurements demonstrate that that CDBS is incorrect by 16 4 feet, it’s Rulemaking proposal should be reinstated because the additional 16.4 feet, when added to ANI’s proposal, eliminates the short-spacing to the proposed reclassification of Station WDJC-FM as a Class C0 facility

H&H does not seek to engage in any debate with ANI regarding the qualifications of its engineer, the quality of its GPS receiver, the methodology of its study or any of the other assumptions offered by ANI Instead, H&H argues that ANI’s position is completely without merit as a matter of law The ANI Petition for Reconsideration must be dismissed.

ANI does not seek to have the Commission merely correct a typographical error in the CDBS database. ANI doesn't allege any Commission administrative error. ANI does not claim that the coordinates used by WDJC-FM in its license application were incorrectly transcribed to CDBS. ANI does claim, however, that the WDJC-FM tower is not where CDBS says it is supposed to be. ANI's conclusion is based upon a readout from a consumer grade GPS receiver obtained from an engineer hired by ANI. This engineer claims to have measured the location of the WDJC-FM tower. It should be noted, however, that there is no affidavit from the engineer which establishes his credentials in the field of surveying nor is there any discussion of the methodology used in measuring the tower's location. What is offered by ANI is that a Garmin Geko 101 GPS receiver was employed for the purpose of proving the location of the WDJC-FM tower. The Garmin Geko 101 GPS receiver is capable of accuracy to within 15 meters, 95% of the time, provided the Department of Defense does not deliberately degrade the accuracy due to its policy of selective availability (See Garmin Outdoor Web Site <http://www.garmin.com/products/geko101/spec.html>). In other words, ANI's premise is based upon a GPS receiver which does not even have the accuracy to measure the 16.4 feet ANI is looking for! It could very well turn out that the WDJC-FM tower is exactly where it is supposed to be and exactly where the CDBS database says it is. There might not be any error at all. ANI did not engage the services of a licensed surveyor. There is no reliable data with which to conclude that there is any discrepancy regarding the reported or actual location of the WDJC-FM tower. Logically, ANI's position is unsupportable.

Even if we assume that ANI is correct and that the WDJC-FM tower is not where CDBS says it is supposed to be, ANI's request for relief is still legally impermissible. ANI's Petition for Reconsideration asks that the Petition for Rulemaking filed by ANI be reinstated *contingent* upon a resolution of the matter surrounding the location of the WDJC-FM tower. ANI seeks to halt the processing of the one-step upgrade application of H&H until the actual location of the WDJC-FM tower is determined and, if it is determined that the WDJC-FM tower is not actually where CDBS says it is located, ANI wants the entire proceeding halted until WDJC-FM either files a corrective application, moves its tower or verifies that its tower is in the right location. Even if ANI's wildly speculative assumption regarding the location of WDJC-FM's tower is correct, the Commission cannot reinstate the ANI Rulemaking petition because the Rulemaking itself is contingent on the


resolution of tower location issue. In fact, there may be no issue regarding the tower location, at all! The Commission does not accept contingent Rulemaking proposals any more than it accepts contingent applications pursuant to 73 3517. Furthermore, even if ANI's research regarding the WDJC-FM tower location was 100% accurate and irrefutable, ANI cannot request the Commission to change the coordinates of the WDJC-FM tower. In this particular situation, Kimtron, Inc., the licensee of WDJC-FM, could choose to dispute ANI's assumption that there is any discrepancy. Kimtron, Inc. may prevail in its efforts to rebut any presumption that its tower location is incorrect. If the tower is incorrectly located, Kimtron may elect to file an application to correct its coordinates. Kimtron also has the option of moving its tower. It has not even been conclusively determined that the WDJC-FM tower is located at variance with the CDBS coordinates. At the moment, Kimtron is under no obligation to conduct any study or survey regarding its tower location. There has been no Commission inquiry regarding the location of the WDJC-FM tower and it is unlikely that the Commission would rush to judgment in this matter on the basis of the flawed ANI study. Until such time as the licensee either elects to change its coordinates or is ordered by the Commission to do so, the CDBS coordinates are presumed to be accurate and must be used as the benchmark for measurements in allocation proceedings.

While we keep in mind the fact that ANI seeks to prove that the location of the WDJC-FM tower is 16.4 feet from where CDBS says it is in order for its Petition for Rulemaking to be acceptable, ANI has another, insurmountable problem. ANI has not demonstrated that it has identified a suitable transmitter/tower site. According to the attached engineering analysis of John Mullaney, the land area available to ANI for a tower site is only 80 feet wide or 0.15 acres! In Report and Order, Amendment of Section 73.202(b) Alberton, Montana, MM Docket 97-51, RM 8983, the Commission stated that, "...The Commission's concerns at the rule making stage do not generally require detailed showings concerning the availability or suitability of a specific transmitter site. We do, however, require a showing demonstrating only that such an area does exist." In the Alberton case, hundreds and hundreds of acres of land were within the area which might have been used as a transmitter site but all of the land was in National Forest protection and no towers could be constructed there. The Commission dismissed the proceeding because the petitioner could not demonstrate that there was a suitable or available site. In the

instant case, the Shorter, Alabama proposal can only be implemented if the tower is constructed within a 0.15 acre area. ANI has not demonstrated that this extremely limited area is available to ANI for the construction of a tower. The suitability and availability issues raised in the Alberton case pale in comparison to the limitations of this Shorter, Alabama case. Clearly, ANI needs to demonstrate the suitability and availability of a tower site. Fortunately, however, this is a moot issue. We need not resolve this question because the ANI Petition for Reconsideration seeks to have the ANI Petition for Rulemaking reinstated as a contingent rulemaking. Since contingent rulemakings are not permissible, its Petition for Reconsideration cannot be granted.

H&H respectfully submits that the Commission's staff was correct in determining that the short-spacing which is evident in the ANI rulemaking proposal cannot be resolved by adjustment of the reference point. The staff correctly returned the ANI Petition as unacceptable. Accordingly, H&H requests that the ANI Petition for Reconsideration be dismissed.

Respectfully submitted,
H&H Communications, L.L.C.

By: 
Richard J. Hayes, Jr.
Its Attorney

Richard J. Hayes, Jr.
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540-349-9970

January 20, 2004

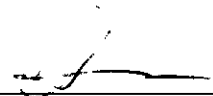
CERTIFICATE OF SERVICE

I, Richard J Hayes, Jr. certify that on this 20th day of January, 2004, I caused to be sent by U.S Mail, postage prepaid, copies of the foregoing to the following:

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ENGINEERING EXHIBIT EE:

**OPPOSITION TO
PETITION FOR RECONSIDERATION
OF THE RETURN OF
A PETITION TO AMEND THE
FM TABLE OF ALLOTMENTS
CH. 228A - SHORTER, ALABAMA**

JANUARY 19, 2004

ENGINEERING STATEMENT PREPARED ON BEHALF OF
H&H COMMUNICATIONS, L.L.C.
LICENSEE OF WQSI(FM) - UNION SPRINGS, AL

Facility ID: 9782

ENGINEERING EXHIBIT EE:

**OPPOSITION TO
PETITION FOR RECONSIDERATION
OF THE RETURN OF
A PETITION TO AMEND THE
FM TABLE OF ALLOTMENTS
CH. 228A - SHORTER, ALABAMA**

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2. Narrative Statement
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Declaration

I, John J Mullaney, declare and state that I am a graduate electrical engineer with a B E E. and my qualifications are known to the Federal Communications Commission, and that I am an principal engineer in the firm of Mullaney Engineering, Inc., and that I have provided engineering services in the area of telecommunications since 1977. My qualifications as an expert in radio engineering are a matter of record with the Federal Communications Commission

The firm of Mullaney Engineering, Inc., has been requested by H&H Communications, L L.C., (licensee of WQSI(FM) Union Springs, AL) to prepare the instant engineering exhibit in support of an opposition to a petition for reconsideration concerning the return of a petition which requests the allotment of an FM channel at Shorter, AL.

All facts contained herein are true of my own knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

/s/ John J Mullaney

John J. Mullaney, Consulting Engineer

Executed on the 19th day of January 2004.

ENGINEERING EXHIBIT EE:

**OPPOSITION TO
PETITION FOR RECONSIDERATION
OF THE RETURN OF
A PETITION TO AMEND THE
FM TABLE OF ALLOTMENTS
CH. 228A - SHORTER, ALABAMA**

NARRATIVE STATEMENT

This engineering statement has been prepared on behalf of H&H Communications, L.L.C. The purpose of this engineering exhibit in support of an opposition to a petition for reconsideration submitted by Auburn Network, Inc. (AUBURN). AUBURN has filed for reconsideration of the return of a petition to amend the FM table of allotments which requests the allotment of an FM channel 228A at Shorter, AL. The FCC staff found the rule making to be short spaced with no possibility of a properly spaced site.

AUBURN **does not dispute** the fact that as filed on two separate occasions their FM rule making petition failed to note that its proposed special reference point at Shorter, Alabama, **was short spaced** to an existing FM facility (WDJC-FM). In its quest for reconsideration AUBURN now **alleges** for the first time that the actual "as built" coordinates of the WDJC-FM tower differs by **1 second** in Longitude from what is contained in the FCC's CDBS engineering data base and thus, AUBURN's proposed allotment at Shorter, AL, is **not really short spaced** (compliance is based upon the use of **0.5 km tolerance** permitted by rules to three different stations). Thus, AUBURN believes the Commission should reconsider its decision to return the petition and it should accept & issue an NPRM to allot Ch 228A at Shorter, AL.

To the contrary, the AUBURN petition at Shorter **was properly dismissed** even if the alleged 1 second difference is factual since AUBURN's petition would be **contingent** upon several future events **not under the direct control of AUBURN**. At the present moment, AUBURN's petition is contingent upon the licensee and/or the FCC agreeing that the difference in the "as built" geographic coordinates does in-fact exist; upon WDJC-FM obtaining FAA approval for the change in coordinates; upon WDJC-FM filing the appropriate FCC form and upon the FCC updating the WDJC-FM license/CDBS. Of course, **this assumes** that WDJC-FM **does not hire** its own licensed surveyor to dispute the claims of AUBURN and that if found to be true that WDJC-FM **does not elect to move** the tower to the coordinates contained in CDBS. All of the steps described herein could take many months and even years to fully resolve. It is **for this very reason** that contingent rule making proposals are **not acceptable**. Delays associated with contingent proposals could totally disrupt the review and orderly flow of not only this rule making request but other requests & 301 applications which are subsequently filed. Allotment proposals are **only acceptable** once all of the **contingencies are fully resolved**. Thus, AUBURN's petition does **not qualify** for reinstatement but AUBURN is free to **re-file its petition at a later time**

FCC's CDBS Engineering Data Base

The official coordinates for all FM stations is what is contained in the FCC's CDBS engineering data base. That information is submitted by proponents (licensee or applicants) via the FCC form 301. Changes to this information can **only be filed** by the proponent or in this specific case KIMTRON, Inc., the licensee of WDJC-FM. Based upon the information contained in CDBS, the Shorter petition for rule making is indeed officially short spaced to WDJC-FM and the **FCC staff correctly returned** the petition as **unacceptable**.

AUBURN CLAIMS TOWER IS OFF BY 1 SECOND

AUBURN's petition for reconsideration claims that by the calculation / measurements performed by their technical consultant the "as built" location indicates that the "rounded" NAD-27 coordinates for the WDJC-FM differ in longitude by 1 second from that contained in CDBS and on the license of WDJC-FM. This claim of a 1 second difference is **inaccurate and is mis-leading**

The FCC engineering data base does not keep station coordinates to a decimal point, thus, decimal seconds are "**rounded**" **up or down** to the nearest integer or whole number (0.50 or greater rounding up & all smaller values rounding down). In this specific case, AUBURN claims to have accurately determined the longitudinal seconds of the "as built" coordinates to be **50.67** and thus, when "rounded (up)" it becomes 51 seconds. The official FCC longitudinal seconds for WDJC-FM are 50 seconds ("rounded") and thus, AUBURN concludes there is a 1 second difference. However, it is perfectly legal for the WDJC-FM tower coordinates to be at **50.49** seconds which would "round down" to 50 seconds **exactly matches** the official FCC longitudinal seconds. Consequently, the alleged "as built" difference is **just 0.18 seconds** ($50.67 - 50.49 = 0.18$ seconds) which translates to **0.0031 miles or 16.4 feet** in its East-West location on the surface of the earth. AUBURN identified the GPS equipment it used as a Garmin Geko 101 but provided no information to determine if the Garmin unit is accurate to a mere 16.4 feet or 5 meters on the surface of the earth.

Appendix A of this exhibit is a specification sheet for the Geko 101 which was easily obtained from the Garmin Web Site. It indicates that the accuracy of the unit is *less than 15 meters, typically 95% of the time*. Or

said another way the accuracy is +/- 15 meters or +/- 49 feet the nearly all of the time. There is no doubt that had the unit been accurate to 15 feet or less a significant portion of the time the manufacturer would have so indicated. Based upon this statement of accuracy provided by the manufacturer web site one must conclude that the **GPS measurements** performed with the Geko 101 on behalf of AUBURN **are not of the accuracy needed** to conclude that the WDJC-FM tower is located a mere 16.4 feet off of where it is officially supposed to be. Consequently, the basic premise on which AUBURN bases its entire petition for reconsideration is **totally flawed**.

AUBURN FAILED TO EXERCISE DUE DILIGENCE

While AUBURN fails the Due Diligence test, they are if nothing else **persistent**. On May 21, 2003, and then on September 17, 2003, AUBURN filed its petition for rule making to allot FM Channel 228A to Shorter, AL. Both petitions propose the same coordinates of **32-21-39 / 85-53-34**. In addition, both petitions contain a channel study which lists the stations which must be protected. The May version of the petition computed the separation to WDJC-FM as **151.50** km while the September version of the petition computed **151.51** km to three CDBS computer records now connected with WDJC-FM. We are **unable to explain** how the distance in the September exhibit increased by 0.01 km except to conclude that someone **incorrectly "edited" the printout** to show compliance. In any event, the computer program used by AUBURN's technical consultant **"impermissibly" rounded the distances** when displaying or printing the information. This is a **critical flaw** and was partially responsible for AUBURN's failure to detect the short spacing **prior to filing** its petition. However, given the indication of **0.00 tolerance** a prudent petitioner would have done additional

calculations to insure compliance. The required separation between an operation on Channel 228A at Shorter and the WDJC-FM operation on 229C0 is 152 km or with the 0.5 km tolerance provided for in the rules is **151.5 km**.

WDJC-FM is presently licensed for operation on Ch. 229C with an ERP of 100 kW at an HAAT of **307 meters**. However, the AUBURN petition request's that WDJC-FM be ordered to be downgraded to a **Class C0** unless it achieved an HAAT of 451 meters or greater as required by Section 73.3573. If WDJC-FM elects to file a 301 application to achieve minimum Class C HAAT the Shorter proposal would be fatally flawed since the required separation to a full Class C is **165 km**. However, if WDJC-FM does not increase its HAAT and is downgraded to a **Class C0** the separation to the Shorter proposal must equal or exceed **151.5 km** (no rounding is used). The **FCC staff** found that the proposed separation **was not** 151.50 or 150.51 km **as claimed by AUBURN**.

A MORE PRECISE CALCULATION OF SEPARATION

A more precise calculation of the separation (without rounding) from the special reference point proposed by AUBURN to the coordinates of record for WDJC-FM indicates the true separation is **151.4952 km**. Consequently, the AUBURN reference point **fails to meet or exceed** the minimum Class C0 separation of 151.5 km. The FCC staff uses its own computer program and **does not rely** on the **edited** printouts submitted by petitioners and as demonstrated herein this is for good reason. As a result the staff determined that the proposal was **0.0048 km** short of meeting the minimum separation to a 1st adjacent Class C0 facility.

This might appear overly harsh, however, one must realize that the FCC rules actually specify a minimum separation of 152 km. The rules require computation of separations to be “rounded” to the nearest integer or whole distance thus essentially incorporating **a tolerance of 0.5 km** to account for minor discrepancies. AUBURN proves the old saying “*give them an inch and they will take a mile*”. In this case the FCC gave 0.5 km and AUBURN wants **0.5048 km**.

NO ADJUSTMENT OF REFERENCE POINT POSSIBLE

Under normal circumstances a RM proponent would simply adjust its coordinates by 1 seconds and this would eliminate the **extremely minor** short spacing. However, in this specific case, **no adjustment of the reference point was possible**. AUBURN’s petition also needed to use the 0.5 km tolerance **towards two other stations** and this prevents AUBURN from making any adjustment (no matter how small, not even a 1 second adjustment) to its special reference point coordinates. This is the **most restrictive “new” FM allotment** I have personally seen. It should be understood that a “new” allotment is open for application by anyone during the appropriate filing window and is **not reserved** for the sole use of AUBURN. To incorporate from the very beginning such a severe limitation on available sites for an “new” allotment makes little sense and **makes a mockery** of the requirement to have a properly spaced site in the first place.

Figure 1 is a tabulation of the actual and required separations to other stations or proposals which must be protected by the allotment at Shorter. This printout **correctly “truncates” the computed separations** to two decimal places, thus, making it **easy to determine** compliance with the minimum separations contained in the FCC rules. It is clear from this

printout that the AUBURN special reference point **fails to meet** the minimum separation to WDJC-FM Class C0 entry in CDBS. It is also clear that it only exceeds by **0.01 km** the minimum separation to WVFJ-FM on Ch 227C1 and clears by **0.00 km** the minimum separation to WQSI on Ch 231A. Again, it should be noted that the 0.5 km tolerance permitted by the rules **has already been incorporated** or two additional short spacings would result.

It is very curious to note that AUBURN went to the trouble of attempting to investigate the coordinates of **only** WDJC-FM. It made no attempt to determine if the coordinates of two other FM stations which are also at or near zero tolerance were perfectly correct. If the FCC is going to investigate the accuracy should it not **include all three stations**.

It should be noted that subsequent to when AUBURN filed its petition to allot Ch. 228A to Shorter, AL, a **one-step upgrade** application was filed for Ch 230C3 by H&H, licensee of WQSI. That application is **mutually exclusive** with the AUBURN petition and will now assume a **first in time** filing position if the RM petition is returned. Consequently, that is why AUBURN is desperately seeking **to use any argument**, no matter how weak, to keep its RM petition from being permanently returned.

REFERENCE POINTS MUST BE SUITABLE

Although very doubtful, even if AUBURN were to successfully cause WDJC-FM to change its official FCC NAD-27 coordinates, the Shorter special reference point will only be properly spaced at the **exact coordinates** specified by AUBURN. A change of even just **one second** in either Latitude or Longitude will result in a short spacing and thus, disqualify the allotment of Ch 228A. We estimate because of rounding of coordinates to the nearest whole second, the land area of a properly spaced site is a square which is approximately 80 feet on a side and this represents approximately **0.15 acres** of land. The FCC rules require that the proposed reference site be suitable for erection of a tower with sufficient height for the allotment. **One must question the suitability** of AUBURN's reference point given the extremely small area.

However, as demonstrated herein, **AUBURN has failed to establish** that WDJC-FM's coordinates are actually wrong and as a result the Shorter allotment on 228A **remains short spaced** and is therefore **fatally flawed**.

AUBURN FAILS TO MEET ITS BURDEN OF PROOF

In its petition for reconsideration AUBURN claims to have allegedly made GPS readings which purport to show that the official coordinates of the tower contained in CDBS do not match the "as built" coordinates of the WDJC-FM tower. However, that claim has several flaws

1. The GPS readings **were not taken** by a registered land surveyor nor are the calculations in the technical exhibit attested to in the form of an affidavit or declaration.

2. The difference allegedly identified by AUBURN is **0.18 seconds** and not the 1 second they refer to in their petition. This translates to 16.4 feet or 5 meters on the earth's surface. The consumer GPS equipment used by AUBURN **does not have sufficient accuracy** to establish the coordinates to the required accuracy of **less than 16 feet**.

3. **Only the licensee or owner** of a structure is permitted to correct the official information connected to that structure and AUBURN has no known legal standing to make such a correction.

4. Because the WDJC-FM tower is surrounded by a fence it was **not possible for AUBURN's consultant to stand directly next to the tower** when making the GPS measurement. Two separate locations outside of the fence were used and the GPS instrument relied upon did not have sufficient accuracy positively conclude that the tower was built in the wrong place. In fact given the accuracy of the GPS equipment used to make the measurements **one can only conclude** that it is possible that the WDJC-FM tower **does exactly match the coordinates** contained in CDBS.

SUMMARY

H&H Communications, L.L.C., herein opposes the petition for reconsideration filed by Auburn Network Inc., of the staff return of a petition to amend the FM table of allotment which requests allotment of FM Channel 228A at Shorter, Alabama. The FCC staff **correctly determined** an undisclosed short spacing which cannot be solved by adjustment of the proposed special reference point and **returned the petition as unacceptable**. This is not disputed by Auburn.

However, AUBURN now seeks to claim that the official coordinates of that station to which it is short spaced are inaccurate. AUBURN **did not use** a licensed surveyor and simply relied upon a **consumer grade** GPS unit which does not have **sufficient accuracy** to determine that the tower is indeed **16.4 feet** off of where it is supposed to be located. AUBURN is not the licensee or owner of the structure and thus, its petition is **contingent** upon resolution of the exact coordinates of WDJC-FM. **Contingent RM proposals are not permitted** and as such its petition for reconsideration must be denied. Even if found to be correct in its claim, the resulting properly spaced allotment area is **essentially non-existent** since it already uses the 0.5 km tolerance permitted by the rules. Allotment of a "new" FM channel with **essentially no permissible area** in which to properly locate is contrary to the allotment policy which requires a properly spaced reference point given that it is unlikely one could ever build at that precise location.

/s/ John J. Mullaney

John J. Mullaney, Consulting Engineer

January 19, 2004

H & H COMMUNICATIONS, L.L.C.

REFERENCE

32 21 39 N

85 53 34 W

CLASS = A

Current Spacings

Channel 228 - 93.5 MHz

DISPLAY DATES

DATA 01-10-04

SEARCH 01-15-04

Call	Channel	Location	Dist	Azi	FCC	Margin
RADD	ADD 228A	Shorter	AL 0.00	0.0	114 0	
WQSI.A	APP 230C3	Union Springs	AL 21.40	102.9	41.0	-20.10 MX
Note: This application was filed after Shorter and is Mutually Exclusive						
ALLO	RSV 230C3	Union Springs	AL 21.40	102.9	41.0	-20.10
WDJCFM	LIC 229C	Birmingham	AL 151.49	322.8	164.0	-13.01
RDEL	DEL 229C	Birmingham	AL 151.49	322.8	164.0	-13 01
RADD	ADD 229C0	Birmingham	AL 151.49	322.8	151.0	-0.01 SHORT
Note: WDJC is subject to a C0 downgrade						
WVFJFM	LIC 227C1	Manchester	GA 132.50	52.2	132.0	0.00 CLOSE
WQSI	LIC 231A	Union Springs	AL 30.51	164.2	30.0	0.01 CLOSE
WVFJFM	APP 227C1	Manchester	GA 136.49	68.0	132.0	3 99
RADD	ADD 226A	Coosada	AL 40.08	292.9	30.0	9 58
RDEL	DEL 227C1	Evergreen	AL 142.39	224.0	132.0	9 89
WPGG	LIC-N 227C1	Evergreen	AL 142.39	224.0	132.0	9.89
RADD	ADD 226A	Montgomery	AL 40.64	268.6	30.0	10 14
WRJMF	LIC 229C1	Geneva	AL 146.03	182.5	132.0	13 53
RADD	ADD 228C3	Morgan	GA 158.13	126.2	141.0	16 63
WPGG C	CP 227C1	Evergreen	AL 151.05	214.2	132.0	18 55
RADD	ADD 230A	Opelika	AL 56.02	56.0	30.0	25.52
WQLD	LIC-N 282C1	Luverne	AL 49.81	210.6	21.0	28.31
RADD	ADD 228A	Morgan	GA 152.60	126.5	114.0	38.10

1. PROPOSED SPECIAL REFERENCE POINT IS SHORT SPACED TO WDJC-FM - C0 DOWNGRADE.
2. NO PROPERLY SPACED AREA EXISTS BECAUSE OF PROTECTION OF WVFJ & WQSI LIC.
3. WQSI C3 ONE-STEP UPGRADE IS MX WITH SHORTER PETITION.

CHANNEL STUDY - 228A - NEW ALLOTMENT - SHORTER, AL

OPPOSITION TO PETITION FOR RECONSIDERATION
PREPARED BY
H&H COMMUNICATIONS, INC

MULLANEY ENGINEERING, INC.
GAITHERSBURG, MARYLAND

FIGURE 1
JANUARY 2004

OPPOSITION TO ANI PETITION FOR RECON
FM RM ON 228A AT SHORTER, AL
JANUARY 2004


MULLANEY ENGINEERING, INC.

APPENDIX A

TECHNICAL SPECIFICATIONS FOR GARMIN GPS UNIT GEKO 101

**OPPOSITION TO
PETITION FOR RECONSIDERATION
OF THE RETURN OF
A PETITION TO AMEND THE
FM TABLE OF ALLOTMENTS
CH. 228A - SHORTER, ALABAMA**


JANUARY 19, 2004

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Specifications

Navigation features

Waypoints: 250 with name and graphic symbol

Tracks: 3,000 trackpoints, automatic track log, TracBack® lets you retrace your path

Trip computer: Current speed, average speed, resetable maximum speed, trip timer, and trip distance

Tables: World Time Zones

Map datums: 18

Position format: Lat/Lon, UTM/UPS, Maidenhead, MGRS, and other grnds

GPS performance

Receiver: 12 parallel channel GPS receiver continuously tracks and uses up to 12 satellites to compute and update your po

Acquisition times:

Warm: Approximately 15 seconds

Cold: Approximately 45 seconds

AutoLocate®: Approximately 5 minutes

Update rate: 1/second, continuous

GPS accuracy:

Position: < 15 meters, 95% typical"

Velocity: 0.05 meter/sec steady state

Dynamics: 6g's

Antenna: Built-in patch

Power

Source: 2 "AAA" batteries (not included)

Battery life: Up to 12 hours

Physical

Size: 1 9" W x 3 9" H x .96" D (48 3 x 99 1 x 24.4 mm)

Weight: 3 1oz with batteries (88 g), 2 3oz without batteries

Display: .92" W x 1 44" H (23 35 x 36 49 mm), 64 x 100 pixel, high-contrast, bright LED backlighting

Case: Waterproof to IEC 529 IPX7 standards

Temperature range: 5°F to 158°F (-15°C to 70°C)